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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,943	04/21/2004	Fred D. Griss	GRISF122500	7168
26389	7590	06/08/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			PARSLEY, DAVID J	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			3643	

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/828,943	Applicant(s) GRISS, FRED D.	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 4-13-05 and this action is final.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,307,532 to Hughs.

Referring to claim 1, Hughs discloses a fishing lure comprising, a shaft – at 1 and/or 1a and/or 1b, adapted to maintain a linear form while fishing – see for example figures 1 and 3-4, the shaft connected at one end to a hook – at 9, a bead – at either of 5,7,8,12, having an opening sized to receive the shaft and slide freely thereon – see for example figures 1 and 3, a wire – at 3 or 3a,3b, connected at a first end to the shaft between the hook and the bead – see for example figures 1 and 3, the second end of the wire extending through the opening of the bead – see for example figures 1 and 3, a tube – at either of 7,8,12, covering the shaft between the hook and the bead – see for example figures 1 and 3, the tube adapted to hold a bait wrapped therearound – see

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for example figures 1 and 3, and the second end of the wire adapted to be wrapped around the bait positioned on the tube to hold the bait on the tube while fishing without the need to pierce the bait with the hook – see for example figures 1 and 3.

Referring to claim 9, Hughs discloses the wire – at 3a,3b, is wrapped around the bait in a spiral toward the hook, to hold the bait on the tube see for example figures 1 and 3.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,982,049 to Yost or U.S. Patent No. 3,839,815 to Latham. Yost and Latham disclose a fishing lure having means for holding bait thereon – at 30-32 or 30'-32' of Yost or – at 12-16 of Latham, comprising a tube – at 26 or 28 or 26' or 28' of Yost or – proximate 14 of Latham, having a surface on which the bait may be mounted – see for example figures 1-2 of Yost and figures 1-3 of Latham, and a metal wire – at 30-32 or 30'-32' of Yost and – at 16,16a, of Latham, connected at one end to the lure and its free end wrapped around the bait to hold it in place on the surface without the need to pierce the bait with a fish hook – see for example figures 1-2 of Yost and figures 1-3 of Latham.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 2-3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs as applied to claim 1 above, and further in view of U.S. Patent No. 5,881,490 to Richardson. Hughs further discloses the wire is of a material and gauge such that after it is wrapped around the bait it maintains its wrapped shape without the second end being anchored – see for example figures 1 and 3. Hughs does not disclose the wire is metal. Richardson does disclose the wire – at 34-38, is metal – see for example column 1 lines 56-67 and column 2 lines 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hughs and add the metal wire of Richardson, so as to allow for the device to be strong and durable for repeated use.

Referring to claim 3, Hughs as modified by Richardson does not disclose the wire is floral wire having a diameter from 18 gauge to 32 gauge. However, it would have been obvious to one of ordinary skill in the art to take the device of Hughs as modified by Richardson and use 18 to 32 gauge wire, so as to allow for the device to be both flexible and durable.

Referring to claim 5, Hughs does not disclose the shaft is formed of stainless steel. Richardson does disclose the shaft – at 12 is formed of stainless steel – see for example columns 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hughs and add the stainless steel shaft of Richardson, so as to allow for the shaft to be less likely to erode in water.

Referring to claim 6, Hughs as modified by Richardson does not disclose the shaft diameter is between 0.04 to 0.25 inches. However, it would have been obvious to one of ordinary skill in the art to take the device of Hughs as modified by Richardson and add the shaft diameter of .04 to .25 inches in diameter, so as to allow for the lure to be both durable and lightweight.

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Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson or Yost as modified by Richardson as applied to claim 2 above, and further in view of U.S. Patent No. 3,293,791 to Hinkson.

Referring to claim 4, Hughs as modified by Richardson does not disclose the core is coated in plastic. Hinkson does disclose the core – at 46, is coated in plastic – at 50. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hughs as modified by Richardson and add the plastic coating of Hinkson, so as to allow for the core to be protected from outside elements and fish bites.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs as applied to claim 1 above, and further in view of U.S. Patent No. 4,691,467 to Brimmer. Hughs does not disclose the tube is elastic and sized to stretch to receive and hold the bead near the tube end. Brimmer does disclose the tube – at 30, is elastic and sized to stretch and to receive and hold the bead – at 36, near the end of the tube – see for example figures 3-5 and column 3 lines 16-44. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hughs and add the elastic tube of Brimmer, so as to allow for the components of the device to be securely held together.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs as applied to claim 1 above, and further in view of U.S. Patent No. 3,795,074 to Mantel.

Referring to claims 10-11, Hughs does not disclose a rotating attracting means being a blade mounted on the shaft. Mantel does disclose a rotating blade – at 38, attached to the shaft – at 10 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary

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skill in the art to take the device of Hughs and add the blade of Mantel, so as to allow for the lure to be more attractive to fish.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughs in view of Richardson. Hughs discloses a fishing lure having a means for holding bait thereon – see for example 3 or 3a,3b, and 7,8,12, comprising a tube – at 7 or 8 or 12, having a surface on which the bait may be mounted – see for example figures 1 and 3, and a wire – at 3a,3b, connected at one end to the lure and its free end wrapped around the bait to hold it in place on the surface without need to pierce the bait with a fish hook – see for example figures 1 and 3. Hughs does not disclose the wire is metal. Richardson does disclose see for example column 1 lines 56-67 and column 2 lines 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Hughs and add the metal wire of Richardson, so as to allow for the device to be strong and durable for repeated use.

Response to Arguments

4. Applicant's arguments with respect to claims 1-7 and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP

David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

6/6/05